REMARKS/ARGUMENTS

This amendment is submitted in response to the Office Action dated November 26, 2003 and as part of the submission requirements of 37 CFR 1.137(b). After entry of this amendment, claims 1-4 will be deleted, new claims 5-10 will be added and pending in the Application. The newly added claims are not claiming a new device but rather are more clearly claiming the invention and placing the claims in a condition for allowance or in a better condition for appeal. Reconsideration and allowance is respectfully requested in view of the remarks made below.

1. Drawings

The drawings were objected to for containing a reference to element 41, although that element was not described or claimed. That element has been removed from the drawings as seen on the annotated and replacement sheets. It is believed that the replacement drawings submitted by the Applicant, conform the drawing to the requirements of 37 CFR 1.84 (p) (5) such that this objection is no longer viable.

2. Claim Rejections under 35 U.S.C. § 102 (b)

Claim(s) 1/(1-4) were rejected as being anticipated by SIM U.S. Patent Application No. 2001/0017131, which was said to show all of the features that Applicant previously set forth in independent claim 1. Applicant has added new claim 5 which sets forth that the firebox is an independent structural element from the enclosure. The firebox as claimed, does not rest upon or touch any structural component associated with the enclosure. This structural difference is not present in the Sim device or in the Reid device. The Applicant has intentionally designed his pit with this feature for ease of removing and cleaning the firebox after use, but more importantly, the firebox can be expeditiously removed from within the enclosure during the use of the pit. In

all barbeque applications, grease fires are a very common problem, especially in the commercial type of pits. It is extremely important to be able to pull the firebox out of the pit enclosure should a grease fire start. Otherwise, the entire inside of the enclosure can catch of fire, with the possibility of the building catching on fire. The Applicant has discovered that by making the firebox an independent component from the cooking vessel itself, the safety of the cooking process can be guaranteed should a grease fire initiate. In this way, a user simply grabs the handle of the firebox and quickly rolls the firebox out from within the enclosure, allowing him to completely roll the fire source away from the enclosure so that the grease fire can be safely and quickly extinguished. Sims is a complicated structure that would not allow a user to independently remove the source of the heat and/or grease fire. Rather, the Sims structure requires a user to first open the covers, then remove the food being cooked, as well as the grate that the food rests upon, before the fuel source can be accessed. However, in order to remove the Sims fuel source, the entire barbeque pit would have to be dumped over, something which is very dangerous once the pit is extremely hot from use. Moreover, the handle (150) in Sims would also be exposed to the heat because of their structural proximity to the heat source, making an expeditious removal of the entire inner dish (100) impossible especially since an expeditious removal would be exacerbated by the fact that several other structural components that attach to the dish would have to be removed therefrom before the dish could be lifted from housing (20). Thus, the Sims device simply does not achieve the desired result that the Applicant's device provides.

3. Claim Rejections under 35 U.S.C. § 103 (a)

Claim(s) 1/(1-4) were rejected over Reid, U.S. Pat. No. 4,765,232, in view of Hait, U.S. Patent Application No. 5,535,733. For the same reasons as stated under the section immediately

above, the Applicant believes that the new independent claim 5 is not obvious in light of either the Reid or Hait patents. The Reid device requires that the firebox ride on support rails inside the structure and these rails are in direct proximity of the charcoal being burned on top of the grate (54). Such exposure has been found by the Applicant to cause severe warping and distortion of the rails such that when a grease fire erupts within the Reid firebox, the firebox depends upon the rails being straight and true so as to allow removal. The Applicant's device entirely does away with that chance by ensuring that nothing on the firebox touches, is incorporated with, or dependent upon a component that is attached to the enclosure for facilitating removal of the firebox from the cooking enclosure.

4. Conclusion

Applicant believes that newly added independent Claim 5, when considered as a whole, clearly distinguishes over the cited art from a structural and functional aspect and cannot be said to be exactly shown and described by the SIM patent for the reasons stated above, nor can it be said to be obvious either for the reasons stated above. As it is believed that Claim 5 is now allowable, it is also believed that newly added dependent claims 6-10 are also allowable as they depend upon what is believe to be an allowable claim. Applicant respectfully requests consideration and allowance of the application as amended.

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Respectfully submitted,

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